

BOARD OF FORESTRY AND FIRE PROTECTION

P.O. Box 944246
SACRAMENTO, CA 94244-2460
(916) 653-8007
(916) 653-0989 FAX
Website: www.bof.fire.ca.gov



MINUTES BOARD OF FORESTRY AND FIRE PROTECTION MEETING DECEMBER 13, 2005 SACRAMENTO

BOARD OF FORESTRY MEMBERS PRESENT:

Stan Dixon, Chairman
Kirk Marckwald, Vice Chair
Gary Rynearson
David Nawi
Mark Bosetti

BOARD MEMBERS ABSENT:

Ron Nehring

BOARD STAFF:

George Gentry, Executive Officer
Eric Huff, Executive Officer, Foresters Licensing
Chris Zimny, Regulations Coordinator
Laura Estrada, Staff Services Analyst

DEPARTMENTAL STAFF:

Dale Geldert, Director, Fire Protection
Bill Snyder, Deputy Director, Resource Management
Duane Shintaku, Assistant Deputy Director, Forest Practice,
Forestry and Fire Protection
Wayne Mitchell, Assistant Deputy Director, Fire Prevention
Giny Chandler, Chief Counsel, Forestry and Fire Protection

CALL TO ORDER

Chairman Dixon called the December 2005 meeting of the Board of Forestry and Fire Protection to order.

APPROVAL OF MINUTES

Chairman Dixon announced that the October and November Board minutes will be deferred to the January Board meeting.

CONSENT CALENDAR

Bruce Reeves, Attorney for the Board of Forestry reviewed the matter of Perry Cockshott and reported that the proposed decision submitted by the Administrative Office of Law (AOL) was adopted by the Board.

REPORT OF THE DIRECTOR

The Director reported that the Appeals court reversed the trial court on nearly all the issues on the Headwater's case and the Department's Attorney, Giny Chandler, will address that issue momentarily and answer any questions that the Board may have.

The Director said per Chairman Dixon, he has assigned Chief Snyder to work with the Executive Officer on the Reorganization issues that deal with Resource Management. The Director felt that the Board is going to be interested in the details more than simply a broad plan.

The Director reported that the new budget year is approaching and the Department is working on its current budget at this time. The Department has a deficit to deal with and contracts cause unforeseen issues. The Department will advise the Board on these issues.

The Department provided an update on the Blue Ribbon Commission recommendations. Chief Geldert said that the document represents the first time in California that the all of the fire services shared one vision document to work from.

Member Nawi had a question on the recommendations in the Blue Ribbon regarding communication issues and compatible radio systems.

Director Geldert said that communication is a key issue. The California Department of Forestry and local agencies have been working together on a new communication system.

Mr. Bill Snyder, Deputy Director, Resource Management, Forestry and Fire Protection went over the CDF Resource Management Reorganization and distributed a handout to all Board members. Chief Snyder went over the current Resource Management organizational structure and status.

Ms. Giny Chandler, Chief Counsel, Forestry and Fire Protection gave an update on the Palco decision. Ms. Chandler reported that she had a copy of the documents.

Mr. George Gentry announced that he did receive the material electronically.

Chairman Dixon congratulated and thanked Chief Geldert for his service as the Director for the Department of Forestry and Fire Protection. He also thanked him for keeping an open line of communication with the Board and wished him good luck on his retirement.

DISCUSSION/CONSIDERATION OF THE HIRING OF A CONSULTANT ON THE ISSUE OF HEMET RYAN AIRBASE RELOCATION TO MARCH AIRBASE

Ms. Giny Chandler, Chief Counsel, Forestry and Fire Protection, reported that at the Board of Supervisor's meeting in November, the Chairman of the Riverside County Board of Supervisor's suggested that the Department consider using an independent consultant to review the reports which have been written. Ms. Chandler said that she believes that the Board received a letter today from one of the Supervisors from Riverside County. There were a couple of reports done and a recent one is characterized in the letter as a CDF report. Ms. Chandler said that it was a draft report, which the Director determined was not complete and as a result, was amended significantly. The third report did not make any conclusion about which would be the better option. There are a number of factors that would indicate that the March-Airbase would be a better decision for the Department. At that point, it was brought to the Board because the Department would like the Board to consider managing the consultant, since the Board is the authority over the Department. That would provide an independent look and the Board would then be able to make a recommendation to the Department.

Chairman Dixon asked what kind of time frame is necessary for the Department to make a decision.

Ms. Chandler said the critical issue is that the Department has financing which will expire at the end of this fiscal year. In order for the amount of money that has been encumbered by finance to not revert to the general fund, things have to happen by the end of the fiscal year. It would be better that we get to the budget process in the end of January/February to make any budget change proposals that might be necessary in the event that some or all of the Hemet/Ryan base were retained as opposed to the current project which is to go with March.

Chairman Dixon asked if it was feasible to review potential consultant's contracts to review these reports and come back with a report by the end of January.

Ms. Chandler said that it is a tight timeframe, but it is possible.

Co-Chair Marckwald said it is very important that the Board have consultation with the County. He felt that the sooner the Board moves with this the better.

Member Ryneason asked if all the environmental documents were in place for March at this point.

Ms. Chandler said yes.

Member Nawi asked about the adequacy of the report. The data leads to March as the preferable alternative.

Ms. Chandler said that the Departments position is that the first report was done with a CDF staff member as part of a Committee and was not an entirely CDF document. The Director determined that a number of conclusions were not supported by the kind of evidence that the Department was comfortable with in making a decision. Ms. Chandler said that although the data on the report does not make a conclusion, the data in it leads toward March as a more preferable alternative.

Chairman Dixon said that he is supportive of the proposal, but concerned with the time constraints. He inquired as to the estimated cost?

Ms. Chandler reported that she spoke with two consultants and they both have indicated that the February time line is tight, but that they could do it. She said that there were two ways that the Board could consider this and one of the processes that the Department has used in the past is a justification for a non competitive bid and in this case the Board could probably make a good argument that it is necessary, particularly given the time frame.

Handling it this way gets the Board out of a bidding process. Again, she said it would be a tight time frame, but 80% of the data has already been collected.

Chairman Dixon said that in order for the Board to comply with the time frame that Ms. Chandler indicated would mean that the consultant would have to have his report back to the Board somewhat earlier than the February Board meeting.

Ms. Chandler said the Department could deal with having this come back to the Board in March. She said that it would be better for the job to be done right than to simply set a February deadline.

Member Ryneason said that the Board would have to have this agendaized and allow for public comment so that members of the Board or the public from the Riverside County could be present for participation in this discussion.

Ms. Chandler said that would also be the Department's intent and is an important component in the process, because the County has indicated rather strongly that they feel that they have not been included in the CDF process.

Member Ryneason asked the Chariman that if the Board is trying to get a February deadline that this Board would have to have this document in sufficient time in order to review and be comfortable with its contents prior to public discussion.

Member Nawi said that the content of any report should not conclude with a conclusion. He felt that the consultants should not put a choice between Hemet-Ryan and March, but basically present a neutral analysis of all the factors relevant to locating a facility of either of those. It should be made clear that the Board is not asking the consultant to make the decision.

Chairman Dixon agreed with member Nawi.

Member Nawi said that due to the political sensitivity and controversial nature, he said it would be important for the Board to closely manage any consultant that the Board would hire as the process goes forward. Close coordination is very important.

Member Nawi volunteered the Executive Officer and possibly have Chairman Dixon appoint two Board members to oversee this process. In essence, that would include selection of a consultant and oversight.

12-13-05 Member Nawi made a motion for the Executive Officer and the Chairman to select a consultant to carry out an analysis and that the selection process actively include Riverside County and part of the instruction would be for the consultant to work closely with Riverside County throughout the process and that the matter be brought back to the Board for public review following completion of the work by the consultant. Member Rynearson seconded the motion and all were in favor.

Chairman Dixon asked before the Board voted on this motion that he wanted to ask Mr. Bruce Reeves, Board Council that if there was anything that would prohibit the Board from moving forward with this motion.

Mr. Bruce Reeves did not see anything to prevent the Board in doing this.

Member Nawi requested to make a friendly amendment to his motion regarding adequate funding.

Chairman Dixon said that before an amendment was made he wanted to ask the Departments council and the Executive Officer if there was anything that was left out of the motion that might give them the other direction that they thought they might need in this process.

Ms. Chandler said that the motion is sufficient and financing is an important component and the Department will work with the Executive Officer to figure out how this will be paid.

12-13-05 Member Nawi made an amendment on the above motion reflecting the condition of the range of adequate funding. Member Rynearson seconded the motion and all were in favor.

THE BOARD WILL CONSIDER ADOPTION OF THE PROPOSED RULE LANGUAGE FOR DEFENSIBLE SPACE, 2005

Mr. Chris Zimny, Regulations Coordinator, introduced the hearing for Defensible Space 2005 to implement the changes to PRC 4291, which was published on October 28, 2005. This is the initial hearing for the 45-Day Notice. The Regulation developed has two components: 1) a performance based regulation to implement the specifics of PRC 4291 and 2) a referenced guideline which is an eight page document detailing how the performance standards can be achieved and be compliant with 4291. Additionally, all of the documents that the Regulations Coordinator was referring to have been included in the Board binders for all of the Board members to reference throughout the hearing.

Mr. Wayne Mitchell, Assistant Deputy Director, Fire Prevention gave a report on the Department's response to the regulation. A handout was given to all Board members on the Department's response. Chief Mitchell went over the Department's recommended changes highlighting the bullet points. CDF generally supports the proposed regulation to make specific defensible spaced clearing standards pursuant to PRC 4291, but recommended changes to the Guidelines in response to comments.

Additionally, CDF is recommending addressing concerns about environmental impacts resulting from implementation of the guidelines, cost impacts to those complying with guidelines and editorial and graphic revisions needed to improve clarity. The Department also recommended changes be incorporated into the guideline that were highlighted in the bullet points of the handout.

Chief Mitchell concluded that changes will likely result in non-substantial changes to the Regulations and Guidelines.

Member Nawi said there was a carry over bullet on the environmental concerns. Member Nawi felt that there was more than one concern being raised. He went over those two areas.

Chief Mitchell said that the discussions that they have had on this was in section A.

Member Rynearson said that the Board does not address any operation that may be commercial. There needs to be some clarification regarding this issue.

Member Bosetti inquired about bullet point #1, which refers to incorporating spacing requirements for “groups” of vegetation. The question was what would those be and how would they be different than what the Board has already talked about.

Chief Mitchell said that the guide was originally prepared was read as individual plant specimens. The Department wanted to clarify the language on groups of vegetation so it could be isolated from other groups. The intent is to change the behavior of the fire if you might have pockets of vegetation it will slow down the fire and change the intensity.

Ms. Chandler asked about the categorical exemption for this regulation and some comments that have been received from the public questioning the categorical exemption being appropriate. The Department has taken a look at that issue and suggested the Board discuss this with Mr. Bruce Reeves to be sure that the Board is comfortable with the choice of exemption or environmental level of environmental review that will accompany this regulation

Mr. Bruce Reeves said that he would like to look at the last bullet point and would like to study this a little further.

Mr. Bill Stewart, FRAP, went over a handout entitled “Backyard Acres to Maintain Fire Safe-1 Decision Maker per Acre”. This handout was distributed to all Board members.

Mr. Dave Hope, Water Quality Board, North Coast Region, reported that there are existing exemptions that would be more suitable because they do not allow for riparian removal. He also thought that fire resistant housing should be stressed within these areas so that they do not have to cut so much vegetation. Fiscal impact should be thought of. Mr. Hope said that the document would sound better if it were clearer.

Public Comment

Mr. Paul Mason, Sierra Club said that it was critical to make this issue clear because it could be inferred allowing entries into riparian areas. He additionally said that it was frustrating when letters are given, but not to the public.

Mr. Doug Riechbieter said that there are conflicting issues and many contradictions. Some option on the 15-day review.

Mr. John Hoffman, Regional Council of Rural Counties, said that there is overlapping of criteria. He also said that the modification that CDF recommended on SB 502 should be made.

Mr. John Greenforth said that he supports and appreciates all of CDF’s efforts. Ladder fuel is a very important issue.

Chairman Dixon asked that the public hearing be deferred for a few moments because the Board was going to lose a Board member for the remainder of the day.

12-13-06 Member Nawi made a motion to look at all issues brought up and move to keep the public hearing open until January or February.

Member Ryneanson said that the hearing should be extended and that Board staff work with CDF.

Co Chair Marckwald asked council to come back with his review and delegate to the Executive Officer to work with CDF, staff and council on whether it is appropriate to set it for January or February.

12-13-06 Member Ryneanson seconded the motion member Nawi previously made.

Member Bosetti asked for clarification of the motion that was being made. Was the motion being made before closing public comment to extend the hearing?

Member Ryneanson said that public comment is being left open.

Co Chair Marckwald said that the Board needs a foundational analysis from council before a decision can be heard.

A vote was made on the above motion and was carried unanimously.

Public Comment (Cont.)

Mr. Doug Ferrier said he was concerned with the general guidelines. He felt that it is the Departments chance to really do something. The general public needs to see how they fit into this. Additionally, he said that the photos did not seem like average property photos. Additionally, there is not enough definition under the 100 foot definition. The general guidelines need to be defined. The statement on what the Board is aiming for must be defined. .Mr. Ferrier said that the document needs further editing. It should be focused to the general public.

Mr. Joe Rawitzer amplified what Mr. Ferrier stated. Whatever the Board can do to work with the Fire Safe Council is appreciated.

Co Chair Marckwald thanked Mr. Chris Zimny and Mr. Hoffman on all of their hard work.

Member Bosetti said he has learned a lot from the comments today. The Department has provided the Board with some direction.

REPORT OF THE EXECUTIVE OFFICER

Mr. George Gentry announced that next months Board meeting will be January 4th and 5th.

The Francis H. Raymond Award dinner will take place on Wednesday night, January 4, 2005 at the B Street Grill in Downtown Sacramento

The Jackson Hearing will take place on January 10, 2006 at the Sacramento Twin Towers and on January 12, 2006 the hearing will be at the Ukiah Fairgrounds.

NEW AND UNFINISHED BUSINESS

Nothing to report.

PUBLIC FORUM: Members of the public may address the Board on any topic within its jurisdiction not otherwise on the agenda. Submittal of written comments is encouraged to ensure that all comments will be included in the record before the Board. Please be prepared to summarize comments to three minutes in length, or otherwise at the discretion of the Chairman.

Mr. Richard Gienger, said that regarding the appeals decision he wished there would have been formal discussion on the Monitoring Study Group (MSG). Additionally, he commended Bill Snyder's report.

ADJOURNMENT

The Chairman adjourned the December 13, 2005 meeting of the Board.

Respectfully submitted,

ATTEST:

George D. Gentry
Executive Officer

Stan Dixon
Chairman

Copies of the attendance sheets can be obtained from the Board Office.